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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re P.M., a Person Coming Under the  
Juvenile Court Law.

B209065  
(Los Angeles County Super. Ct.  
No. PJ42854)

THE PEOPLE,

Plaintiff and Respondent,

v.

P.M.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County, Morton Rochman, Judge. Affirmed.

Bruce G. Finebaum, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Scott A. Taryle and John R. Gorey, Deputy Attorneys General, for Plaintiff and Respondent.

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Appellant P. M. appeals from an order declaring him a ward of the court under Welfare and Institutions Code section 602 after the juvenile court sustained a five count petition alleging that he committed carjacking of James Lara in violation of Penal Code section 215, subdivision (a),<sup>1</sup> second degree robbery of the same victim in violation of section 211, two counts of assault by means likely to produce great bodily injury of Jeffrey Morse and Lara in violation of section 245, subdivision (a)(1), and grand theft of an automobile in violation of section 487, subdivision (d)(1). Appellant was committed to camp for one year, with a maximum term of physical confinement of 12 years.

Appellant contends substantial evidence does not support the findings he committed carjacking and robbery of Lara. We hold there is substantial evidence to support the findings. Accordingly, we affirm the judgment.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### **Prosecution Case**

Lara was driving his 2007 Cadillac in the early morning of May 11, 2008, with his friend Morse, when a cream colored car pulled in front of him and blocked his car. The occupants of that car yelled at him to get out. He sped away, but the car followed. The chase ended when the cream colored car and a black car blocked him in front and back. Lara got out of his car and the next thing he remembered was that he was in an ambulance on the way to the hospital. Items that had been on the backseat of his car and on his person were missing, including: over \$600 in gift certificates, a cell phone, an iPod, compact disks, \$300 in cash, a watch, and Marine Corps jackets. He sustained a broken nose, chipped teeth, black eyes, and facial bruises. He recovered his car two days later in the impound.

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<sup>1</sup> All statutory references are to the Penal Code unless otherwise indicated.

According to Morse, the attackers initially demanded that he and Lara get out of their car. Someone said, “where you from?” The attackers jumped them and hit them. Morse ran. When he returned moments later, he found Lara unconscious in the street. The Cadillac was gone. Morse sustained head injuries.

Gregorio Prendiz observed three cars speeding down the street and stop at the end of the block. Four to seven youths jumped out of two of the cars and attacked two men in the middle of the street. The fight lasted a minute and a half. One of the victims ran to Prendiz and told him he had just been accosted by some kids who had taken his car.

Police Detective Anthony Vairo interviewed appellant and D.L.,<sup>2</sup> the minor in a companion case involving this incident. Appellant told Detective Vairo that he, D., and others followed the victims in two cars as the victims threw signs at them. The victims stopped, got out of their car, and started fighting with appellant’s friend. “We all got out of [the] car I was in and we tried to stop the fight. But while these guys from the Cadillac were on the ground, I decided to steal the Cadillac S.U.V. along with D. [¶] Me and D. drove . . . to Santa Monica Beach. [¶] After that we drove back to San Fernando, and that’s when the police tried to stop us. We already were stopped and walked away from the Cadillac when I was arrested. I actually hid in a backyard of a house when I was arrested.” Appellant had markings or blood, scrapes, and minor bruising or contusions on his hands.

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<sup>2</sup> The contents of D.’s interview statement was not admitted at trial.

## DISCUSSION

### **The Finding Appellant Committed Carjacking of Lara is Supported by Substantial Evidence**

Appellant contends substantial evidence does not support the finding he committed carjacking of Lara because the evidence is insufficient to show that he assaulted Lara with the intent to take Lara's car. We disagree.

We review the evidence in the light most favorable to the order of wardship. (*In re George T.* (2004) 33 Cal.4th 620, 630-631.) The standard of proof in juvenile proceedings is the same as in adult criminal trials. (*In re Jose R.* (1982) 137 Cal.App.3d 269, 275.)

In assessing a claim of insufficiency of evidence, the reviewing court's task is to review "the whole record in the light most favorable to the judgment . . . to determine whether it discloses substantial evidence—that is, evidence which is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the appellant guilty beyond a reasonable doubt." (*People v. Johnson* (1980) 26 Cal.3d 557, 578; accord, *People v. Barnwell* (2007) 41 Cal.4th 1038, 1052.) The federal standard of review is to the same effect: under principles of federal due process, review for sufficiency of evidence entails not the determination whether the reviewing court itself believes the evidence at trial establishes guilt beyond a reasonable doubt, but, instead, whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. (*Jackson v. Virginia* (1979) 443 U.S. 307, 317-320.) Where substantial evidence supports the trial court's finding, and other circumstances support a contrary finding, the trial court's finding will not be reversed. (*People v. Stanley* (1995) 10 Cal.4th 764, 793.)

Section 215, subdivision (a) provides: "'Carjacking' is the felonious taking of a motor vehicle in the possession of another, from his or her person or immediate presence, or from the person or immediate presence of a passenger of the motor vehicle, against his

or her will and with the intent to either permanently or temporarily deprive the person in possession of the motor vehicle of his or her possession, accomplished by means of force or fear.” The use of force or fear must be motivated by an intent to steal. (See *People v. Green* (1980) 27 Cal.3d 1, 54 [“the act of force or intimidation by which the taking is accomplished in robbery must be motivated by the intent to steal in order to satisfy the requirement of section 20: if the larcenous purpose does not arise until after the force has been used against the victim, there is no ‘joint operation of act and intent’ necessary to constitute robbery”], overruled on other grounds in *People v. Hall* (1986) 41 Cal.3d 826, 834, fn. 3.)

The record contains substantial evidence from which the juvenile court could infer appellant assaulted Lara with intent to commit carjacking. Before the assault began, the attackers demanded that Lara and Morse get out of their car, supporting the inference an intent to steal the car was formed at the beginning of the attack. The assault was of brief duration, and at its conclusion, appellant immediately drove away in Lara’s car, indicating the intent to steal continued during the assault. The assailants beat Lara unconscious and caused Morse to flee, which cleared the way for appellant to take the car, again supporting an inference the assault was motivated by an intent to steal the car. Appellant’s acknowledgement that he decided to steal the car while the victims were on the ground establishes he had the intent to steal the car while the assault was going on.

### **The Finding Appellant Committed Robbery of Lara is Supported by Substantial Evidence**

Appellant contends there is no substantial evidence he aided and abetted the robbery of Lara’s property from his person because the evidence was insufficient to show he knew of his companions’ criminal purpose and gave aid or encouragement with the intent to facilitate the robbery. He further contends there was no substantial evidence he robbed Lara of the personal property in Lara’s car because the evidence was insufficient to show an intent to steal accompanied the use of force or fear. Appellant is mistaken.

“Robbery is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear.” (§ 211.)

“Under California law, a person who aids and abets the commission of a crime is a ‘principal’ in the crime, and thus shares the guilt of the actual perpetrator. (§ 31.) [¶] Accomplice liability is ‘derivative,’ that is, it results from an act by the perpetrator to which the accomplice contributed. [Citation.]” (*People v. Prettyman* (1996) 14 Cal.4th 248, 259.) “[A]n aider and abettor is a person who, “acting with (1) knowledge of the unlawful purpose of the perpetrator; and (2) the intent or purpose of committing, encouraging, or facilitating the commission of the offense, (3) by act or advice aids, promotes, encourages or instigates, the commission of the crime.” [Citations.]” (*People v. Jurado* (2006) 38 Cal.4th 72, 136.) “Among the factors which may be considered in making the determination of aiding and abetting are: presence at the scene of the crime, companionship, and conduct before and after the offense.” (*In re Lynette G.* (1976) 54 Cal.App.3d 1087, 1094.)

Lara’s testimony that his property was missing after the attack indicates personal property was taken from him, against his will, by means of force. The taking occurred contemporaneously with the attack. Appellant’s statement he participated in chasing down Lara’s car and fighting the victims,<sup>3</sup> Lara’s testimony the attackers blocked his car in a trap, and the injuries to appellant’s hands, indicate appellant actively participated in the assault. Beating Lara into unconsciousness and driving Morse to flee cleared the way for robbing Lara of his personal property, which indicates the assault was motivated by an intent to rob. As the robbery occurred during the assault, appellant’s participation in the assault supports the inference he was aware of and shared in the intent to commit

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<sup>3</sup> Appellant claimed he participated in the fight in order to break it up, but we review the evidence in the light most favorable to the wardship order and all intendments are indulged to support it. (*In re George T., supra*, 33 Cal.4th at p. 631; *People v. Carpenter* (1999) 21 Cal.4th 1016, 1046.) The juvenile court could reasonably conclude from the evidence of the injuries to appellant’s hands that appellant’s statement concerning his motivation was not credible.

robbery and aided in the commission of the offense. (See, e.g., *People v. Campbell* (1994) 25 Cal.App.4th 402, 409 [“concerted action reasonably implies a common purpose”].) Appellant’s participation in the carjacking further indicates he shared the larcenous intent of the perpetrators of the robbery.

### **DISPOSITION**

The judgment is affirmed.

KRIEGLER, J.

We concur:

TURNER, P. J.

ARMSTRONG, J.